

higher education, such provision of law specifically:

(i) Identifies the particular institution of higher education involved; and

(ii) States that such provision of law modifies or supersedes the provisions of 10 U.S.C. 2361 (a requirement that applies only if the statute authorizing or requiring award by other than competitive procedures was enacted after September 30, 1989).

(3) *Other entities—new grants for research and development*—(i) *General*. In the case of a new grant for research and development to an entity other than an institution of higher education, such provision of law specifically:

(A) Identifies the particular entity involved;

(B) States that the award to that entity is required by such provision of law to be made in contravention of the policy set forth in 10 U.S.C. 2374(a).

(ii) *Exception*. The requirement of paragraph (c)(3)(i) of this section does not apply to any grant that calls upon the National Academy of Sciences to:

(A) Investigate, examine, or experiment upon any subject of science or art of significance to the Department of Defense or any Military Department; and

(B) Report on such matters to the Congress or any agency of the Federal Government.

#### § 22.315 Merit-based, competitive procedures.

Competitive procedures are methods that encourage participation in DoD programs by a broad base of the most highly qualified performers. These procedures are characterized by competition among as many eligible proposers as possible, with a published or widely disseminated notice. Competitive procedures include, as a minimum:

(a) Notice to prospective proposers. The notice may be a notice of funding availability or Broad Agency Announcement published in the FEDERAL REGISTER or Commerce Business Daily, respectively, or a notice that is made available broadly by electronic means. Alternatively, it may take the form of a specific notice that is distributed to eligible proposers (a specific notice must be distributed to at least two eli-

gible proposers to be considered as part of a competitive procedure). Notices must include, as a minimum, the following information:

(1) Programmatic area(s) of interest, in which proposals or applications are sought.

(2) Eligibility criteria for potential recipients (see subpart D of this part).

(3) Criteria that will be used to select the applications or proposals that will be funded, and the method for conducting the evaluation.

(4) The type(s) of funding instruments (e.g., grants, cooperative agreements, other assistance instruments, or procurement contracts) that are anticipated to be awarded pursuant to the announcement.

(5) Instructions for preparation and submission of a proposal or application, including the time by which it must be submitted.

(b) At least two eligible, prospective proposers.

(c) Impartial review of the merits of applications or proposals received in response to the notice, using the evaluation method and selection criteria described in the notice. For research and development awards, in order to be considered as part of a competitive procedure, the two principal selection criteria, unless statute provides otherwise, must be the:

(1) Technical merits of the proposed research and development; and

(2) Potential relationship of the proposed research and development to Department of Defense missions.

#### § 22.320 Special competitions.

Some programs may be competed for programmatic or policy reasons among specific classes of potential recipients. An example would be a program to enhance U.S. capabilities for academic research and research-coupled graduate education in defense-critical, science and engineering disciplines, a program that would be competed specifically among institutions of higher education. All such special competitions shall be consistent with program representations in the President's budget submission to Congress and with subsequent Congressional authorizations and appropriations for the programs.